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**Environmental Advisory Council**  
**Tuesday, June 26, 2012**

The regular meeting of the Environmental Advisory Council was held on the above date for the transaction of general business at Bernhart Park.

EAC members present –D. Beane, R. Nieves, A. Molteni, B. Jennings

Others present – S. Katzenmoyer, D. Hoag, K. Feridun

**CALL TO ORDER**

Mr. Beane called the meeting to order at 5:10 pm.

**PUBLIC COMMENT**

Ms. Feridun, of Berks Gas Truth, stated that she attended a City Council meeting and spoke regarding PA Act 13. She stated that Council referred her to the EAC. She stated that Berks County is part of the Utica Shale outcrop and that this Act will affect Berks. She stated that the immediate threat to communities is the loss of local control of pipelines, etc as Act 13 allows these facilities within 300 feet of any location. She stated that it also removes the local municipality's ability to appeal decisions and that US EPA will listen to municipality's concerns but does not need to act on them.

Ms. Feridun stated that Act 13 gave counties a sixty day window to act to benefit from the impact fees of Act 13 and that the Berks County Commissioners have passed the necessary legislation. She stated that a lawsuit has been filed against Act 13 by a physician who does not believe that all physicians treating patients who may be ill from drilling operations will not be able to inform the public about the possible threat.

Ms. Hoag questioned if this included groundwater issues. Ms. Feridun stated that it did. She stated that Act 13 issues a gag order on physicians who cannot carry out their commitment to public health and safety.

Ms. Feridun stated that the lost of municipal control on the placement of drilling operations is very concerning. She stated that in addition, the Utica Shale allows for force pooling. She explained that this would allow 60% of land owners to sign leases with the drilling company and force the other 40% to allow drilling

without leases.

Ms. Feridun stated that a lawsuit has been filed stating that Act 13 is unconstitutional and that they need the support of PA municipalities.

Mr. Molteni questioned the maps used to determine where to drill. Ms. Feridun explained that the maps are vague and explained the differences between dry gas, wet gas, and oil that are available in the shale formations.

Ms. Hoag questioned if the structure of government in PA influenced the drilling companies to locate here. Ms. Feridun stated that PA is now considered a “friendly” state for drilling companies. She also stated that HB 1659 removes PA DEP’s ability to review permits.

Mr. Beane questioned the timeline for the resolution. Ms. Katzenmoyer explained that this resolution could be placed on and acted upon at Council’s July 9 agenda. She stated that due to the Independence Day holiday, she would need the completed resolution on Monday, July 2. She suggested that the EAC also prepare an agenda memo to explain their position.

Dr. Jennings stated that there is not much research available on this topic. He stated that more is beginning to appear.

Ms. Hoag stated that if it can be proven that the drilling has caused contamination of groundwater that potable water must be provided but that this may need miles of pipeline for delivery.

Mr. Beane noted his concern with the pre-emption issue. He stated that interstate commerce is regulated by the federal government. He expressed his belief that the State has passed the issue to the federal government through this regulation and that there are legitimate health and safety concerns. He noted that there is some benefit to the Clean Air Act through Act 13 but only if procedures are followed properly. He also noted the economic benefit of Act 13.

Dr. Jennings questioned how the 300 foot setback was determined. Ms. Feridun stated that this is an arbitrary figure as there is no research on the issue.

Mr. Beane expressed his belief that the Commonwealth Court will not overturn the Act in its entirety and noted his hope that they do overturn the loss of local control. He noted that this will not stop fracking and again noted the health and

safety concerns.

Ms. Feridun stated that fracking is now well established in PA and will not be leaving. She noted the need to put the onus on the drilling companies to prove that contamination is not their fault rather than on the property owner to prove that it is. She stated that there is a ban on drilling in State forests.

Ms. Hoag stated that groundwater is unseen but forests are very visible. Ms. Feridun agreed and stated that the slogan of this campaign is that “we’re all downstream.” She noted that abandoned wells will fail.

Dr. Jennings questioned injection wells. Ms. Feridun stated that there are currently eight in PA. She stated that Ohio will no longer accept PA’s waste due to the earthquake issue.

Mr. Beane noted his hope for consensus on the EAC resolution as recommended to Council. He stated that he will draft the resolution to oppose the health and safety issues of Act 13. He stated that he will circulate the draft to members for their comment before submitting it for Council consideration.

Ms. Hoag suggested circulating a bullet list of issues so members can determine those that they support.

Ms. Feridun stated that there are six municipalities in Berks County which have passed this resolution to date – Kutztown, Lower Alsace, Alsace, Mount Penn, Maiden Creek and West Reading. She stated that these municipalities have used the model resolution.

Ms. Katzenmoyer reminded Mr. Beane of the holiday deadline and stated that if it is not received on July 2, it will need to wait until the July 23 meeting. Mr. Beane stated that he will begin work on the resolution tomorrow.

Mr. Beane noted his hope for a unanimous decision by the EAC. Mr. Nieves noted his objection to the resolution as he has not had enough time to review the entire issue. He noted that he wants to do what’s right and that local control should not be lost.

Mr. Beane stated that his resolution will not contain sweeping objections to the entirety of the Act but will take a middle of the road approach and will address the loss of local control and the health and safety issues. Mr. Nieves stated that

he will abstain from voting on the resolution.

Ms. Hoag stated that Act 13 will also affect the Planning Commission.

### **MINUTES**

**Mr. Molteni moved, seconded by Mr. Nieves, to approve the May 22, 2012 minutes as written. Motion carried unanimously.**

### **FLUORIDE IN WATER SYSTEM**

Mr. Molteni requested additional time to research this issue. He stated that he has been researching information and most are not in favor of systemic use.

Dr. Jennings questioned why they do not support systemic use. Mr. Molteni noted the need to be careful when dealing with science as data can be manipulated. He stated that system use allows aluminum into the human systems more easily and an increase in aluminum has been linked to Alzheimer's. He stated that it has also been linked to a lower IQ and thyroid effects. He stated that some papers have great work cited pages which leads to additional research.

Ms. Hoag stated that some data provided by Mr. Molteni is dated. Mr. Molteni stated that the research is from 2009 but compares recent data with older data. He stated that systemic fluoride for the regulation of cavities is not supported by the research.

Mr. Nieves stated that his research also showed that fluoride is linked to allergies, arthritis, brain disease, reproductive problems, and thyroid issues. He noted his concern with decreased test scores in youth now that fluoride has been systemically used for several decades. He stated that there is no current research linking these two issues. Ms. Hoag stated that this issue would be very difficult to research due to transiency.

Mr. Molteni expressed his belief that topical fluoride is a much safer alternative.

Dr. Jennings noted the need of all to be cautious.

Mr. Beane stated that this item will be discussed at next month's meeting.

## **RAIN BARREL REGULATIONS**

Ms. Katzenmoyer explained that the suggestions from all other City departments have been integrated into the final draft. She stated that it is ready for discussion with Council.

Ms. Katzenmoyer suggested this begin in the Housing and Economic Development Committee with a discussion on July 2. Mr. Beane stated that he will be able to attend.

## **BERNHART PARK UPDATE**

Ms. Hoag stated that he has not had a response since the work group's last meeting. She stated that the steep slope fencing issue is the last remaining open issue.

Dr. Jennings questioned if the park is still officially closed. Ms. Hoag stated that it is officially closed but residents are using the areas. She stated that the park is still under the contractor's control until the final issue is resolved.

Dr. Jennings questioned if the trail was safe for use. Ms. Hoag stated that the trail is safe but that people are encouraged not to venture off the trail as they will wander into unremediated areas with high lead levels.

Mr. Molteni questioned the orange stakes. Ms. Hoag explained that they remain in case the grid needs to be re-established for additional research and testing.

Mr. Beane stated that he will follow up with Exide and US EPA on the last outstanding issue.

## **SMARTH GROWTH ALLIANCE**

Mr. Nieves stated that he did not attend the event.

## **STEEP SLOPE ZONING OVERLAY**

Ms. Katzenmoyer stated that the City Planner has requested that no official action be taken on this item until after August 2012. The EAC agreed.

## **FLOODPLAIN ZONING OVERLAY**

Ms. Hoag stated that the floodplain amendment is complete and was enacted by Council on June 11. This item will be removed from the agenda.

## **RIPARIAN BUFFER ZONING OVERLAY**

Ms. Katzenmoyer stated that she has done some preliminary research and has created a first draft based on a model ordinance. She stated that the draft was forwarded to Mr. Beane and Ms. Hoag for comment.

## **STORMWATER ISSUES**

Ms. Hoag stated that an inter-governmental agreement was introduced by Council at their June 25 meeting. She stated that seven of eight municipalities along the Wyomissing Creek are participating. There is potential for county-wide cooperation on MS4 issues.

Ms. Hoag stated that the City is also responsible for the Tulpehocken Creek and the Schuylkill River.

Mr. Molteni questioned if testing for PCBs was still taking place. Ms. Hoag stated that it is not. She stated that testing was done in the mid to late 80's and again in 2003. She stated that the data is now being compared.

Mr. Nieves questioned the inter-governmental agreement. Ms. Hoag stated that there are 50 other municipalities within the County working on MS4 issues. She stated that the 2010 census information is being used to determine the urbanized centers and cooperation is encouraging.

## **ALTERNATIVE ENERGY SOLUTIONS**

Mr. Beane stated that Mr. Lloyd approached the EAC about drafting this legislation. He noted that at the time the Mayor's office believed they could use a student to assist as Mr. Wood assisted the EAC with the Steep Slope Ordinance. They are still searching for a student.

## **RECYCLING/SOLID WASTE SUBCOMMITTEE**

Mr. Beane stated that the DEP 902 recycling grant has been completed by the subcommittee and is requesting \$250,000 for a large baler which will be located at 14<sup>th</sup> & Walnut Sts. He stated that the Conrad Weiser School District's baler will be relocated to Reading High by the end of June.

Ms. Hoag questioned if all school district building's cardboard would be transported to Reading High to be baled. Mr. Beane stated that the small baler would not be able to handle that amount of cardboard. He stated that if the grant is received, all schools' cardboard will be baled at 14<sup>th</sup> & Walnut Sts.

Mr. Molteni noted the need for the City to expand recycling to businesses as commercial properties are not required to recycle. He noted that this is a significant source of waste.

Mr. Nieves questioned why businesses were exempt. Mr. Molteni stated that he did not know.

Mr. Beane stated that some businesses' supply chain policies require sustainability and others do nothing.

Dr. Jennings questioned the need for the EAC and the Mayor's Sustainability Committee. He questioned the overlap. Mr. Beane explained that the EAC reports to Council. He noted that the Mayor would like to explore new revenue sources through sustainability issues and also explore initiatives that would decrease costs at City facilities.

Ms. Hoag encouraged joint projects.

### **EMAIL FORWARDS**

Mr. Beane noted the emails received from Ms. Rauenzahn which she requests be forwarded to EAC members. He noted the position that some of the emails take and questioned if it was something that should continue. He stated that some of the emails put Ms. Katzenmoyer in the awkward position of deciding if they are appropriate to forward.

Ms. Hoag suggested that Ms. Rauenzahn develop her own list for forwards. She stated that this would allow for a better target audience.

The EAC agreed that Ms. Katzenmoyer should not be put in this position. Mr. Beane will follow up with Ms. Rauenzahn.

### **ANNUAL REPORT TO COUNCIL**

Mr. Beane stated that he will be presenting the EAC's annual report to Council at their July 23 meeting. He stated that he will prepare draft comments and distribute them to the EAC for their comment. He noted that the report will be an update on the work of the EAC over the past year.

## **RESIGNATION**

Mr. Nieves stated that he has resigned effective the close of this evening's meeting. He noted that he is parting as a friend.

The EAC thanked Mr. Nieves for his work.

Mr. Nieves stated that he is moving his life in a new direction.

Mr. Beane noted that the fluoride issue is not yet closed and that Mr. Nieves may be asked to assist the EAC on subcommittees again in the future.

Dr. Jennings questioned if this resignation would cause quorum issues. Mr. Beane stated that it would not if all remaining members attended each meeting.

Mr. Beane stated that he continues to search for new members. He questioned if Pier Ignozzi Schaeffer had submitted her application. Ms. Katzenmoyer stated that she had not.

Dr. Jennings stated that he is also trying to recruit new members.

## **NEXT MEETING DATE**

Ms. Katzenmoyer explained that she will be on vacation the week of July 23 and will not be attending the next meeting. Dr. Jennings stated that he is also unavailable that week.

Ms. Hoag suggested holding the next meeting in the beginning to middle of August as a July/August meeting. Mr. Beane agreed and stated that he will work with Ms. Katzenmoyer to set a date and advertise the meeting.

The meeting was adjourned at 6:47 p.m.

The next meeting of the Environmental Advisory Council will be held on Tuesday, August 7, 2012 at Northmont Playground pavilion.

Respectfully submitted by  
*Shelly Katzenmoyer*  
Deputy City Clerk